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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,352	01/30/2001	Caesar Berger	18995-80141 (44862)	2572
7590	07/21/2005		EXAMINER	
Edward G. Poplawski, Esq. SIDLEY & AUSTIN 555 West Fifth Street Los Angeles, CA 90013-1010			KYLE, CHARLES R	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/774,352	BERGER ET AL.
Examiner	Charles Kyle	Art Unit 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 11 May 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-18 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date Oct. 16, 2001

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,675,153 *Cook et al* in view of *Homestead.com enables e-tailers to accept credit cards without a merchant account*, hereinafter, *Homestead*.

**As to Claims 1 and 2**, *Cook* discloses the invention substantially as claimed, including in a method of conducting an e-commerce transaction over a communications network (Col. 4, lines 26-35), steps of:

- (a) a customer providing payment information to pay for selected goods or services offered by a merchant (Col. 11, lines 12-24);
- (b) entering the payment information on an e-commerce site associated with the merchant (Col. 6, lines 29-53), the merchant having a permanent payment processing account, and associated account identification information, with a financial processing authority (Col. 15, lines 5-8);
- (c) submitting merchant identification information and the payment information (Col. 9, lines 24-34);
- (d) validating the merchant identification information (Col. 9, lines 24-34);

- (e) forwarding the payment information and payment processing account identification information to a payment gateway entity (Fig. 3, Arrow 8; Col. 11, line 46 to Col. 12, line 4);
- (f) the payment gateway entity submitting the payment information and account identification information to the financial processing authority for payment authorization (Fig. 3, Arrow 9; Col. 12, lines 5-12);
- (g) forwarding authorization data via the payment gateway (Fig. 3, Arrow 10; Col. 12, lines 12-15); and
- (h) notifying the merchant of the payment authorization (Fig. 3, Arrow 11; Col. 12, lines 12-15).

*Cook* does not specifically disclose that a merchant-hosting entity provides the functionality of maintaining a permanent payment processing account. *Homestead* discloses this at pages 1-2. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Cook* with the merchant account services disclosed by *Homestead* because this would allow a merchant to process credit card sales without incurring the regular fees of a merchant account and learning complex technology, as set forth by *Homestead* at page 1, para. 2.

The Examiner notes that no permanent payment processing account connected with the transaction is associated with the merchant.

**As to Claim 3,** *Cook* discloses payment information including a payment vehicle (Col. 6, lines 29-53) and amount (Col. 7, lines 44-65).

**As to Claim 4,** *Cook* discloses use of credit card at Summary of the Invention, at least.

**As to Claim 5,** *Cook* discloses selection of goods at Col. 15, lines 10-23, at least.

**As to Claim 6,** *Cook* discloses submission of customer identification data at Abstract (digital signature), at least.

**As to Claim 7,** *Cook* discloses delivery information at Col. 4, lines 36-41. Official Notice is taken that it was old and well known to include a customer's name in delivery information. For example, names were commonly used to identify persons receiving packages. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Cook* to use a customer name as part of customer identification data because this would help proper delivery of purchased goods.

**As to Claims 8 and 9,** *Homestead* discloses hosting plural websites for merchant account services at page 1, paras. 1-3 and that the *Homestead* entity is separate from user sites at the same citation. See homestead.com web address.

**As to Claim 10,** *Cook* discloses a merchant website at Background.

**As to Claim 11,** Official Notice is taken that it was old and well known to access websites telephonically. For example, the use of a modem and telephone to connect to a website was a common e-commerce method. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the use of a telephone and modem to access a merchant site because this would make the site accessible to persons lacking broadband connection to the Internet.

**As to Claim 12,** *Cook* discloses notifying the consumer of authorization; a completed transaction needs to be authorized in the environment of *Cook*.

**As to Claim 13,** Official Notice is taken that it was old and well known to settle a credit card transaction. For example, settlement was done to transfer payment associated with the

transaction. It would have been obvious to one of ordinary skill in the art at the time of the invention to include settlement of the transaction so as to allow all parties to book a completed sale or purchase.

**As to Claim 14**, see the discussion of Claim 1. *Cook* further discloses a communications network (Abstract), an application interface (Summary of the Invention), an electronic payment gateway computer system connected to the network and in communication with the merchant-hosting entity computer system, that stores the merchant identification data (Fig. 4, ele 102 and related text) and an electronic payment processing authority computer system in communication with the payment gateway computer system that authorizes the customer payment for the selected goods or services (Fig. 4, ele. 104 and related text).

*Cook* does not specifically disclose the merchant-hosting site for e-commerce so that a merchant can sell without resort to a permanent payment processing account associated with the merchant. *Homestead* discloses this limitation at pages 1-2. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Cook* with the merchant account service website disclosed by *Homestead* because this would allow a merchant to process credit card sales without incurring the regular fees of a merchant account and learning complex technology, as set forth by *Homestead* at page 1, para. 2. It would further have been obvious to provide a database holding merchant and customer identification and payment information to offload database maintenance functions from the merchant website.

**As to Claims 15-18**, see the discussion of Claim 14 and Claims 4, 8, 10 and 11 respectively.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk  
July 18, 2005

Examiner Charles Kyle

